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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,117	12/15/2003	Lennart J. Brandel	7343-1	3626
7590 JOHNS MANVILLE Legal Department 10100 West Ute Avenue Littleton, CO 80127			EXAMINER CHOL, PETER Y	
			ART UNIT 1794	PAPER NUMBER
			MAIL DATE 08/28/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/736,117

Applicant(s)

BRANDEL ET AL.

Examiner

PETER Y. CHOI

Art Unit

1794

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 August 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1,3,4,6,7 and 11.
Claim(s) withdrawn from consideration: 12-15,19 and 21.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Peter Y Choi/
Examiner, Art Unit 1794

/Andrew T Piziali/
Primary Examiner, Art Unit 1794

Continuation of 11, does NOT place the application in condition for allowance because: Applicants argue that the Office appears to be picking and choosing the glass fiber yarn of Draxö and combining it with the Jacquard weaving process of Land to arrive at the claimed invention. Examiner respectfully disagrees. Draxö does not require that the weave necessarily be produced using the any particular machine. Additionally, Land teaches that it was known in the wallcovering art to form a fabric for use in wallcovering comprising textured glass woven yarns, wherein the fabric is woven into various styles including Jacquard, and woven using known looms. Therefore, it would have been obvious to one of ordinary skill in the wallcovering art at the time the invention was made to form the woven glass fiber textile fabric of Draxö, wherein the fabric is formed from the process as taught by Land, motivated by the desire of forming a conventional wallcovering with a style known in the wallcovering art to be predictably suitable for use in wallcovering, based on the desired physical properties of the fabric including style, appearance, hand, and loft.

Applicants argue that the results of combining Draxö and Land would not have been predictable given the different glass yarns disclosed by each of Draxö and Land. Examiner respectfully disagrees. Applicants appear to be arguing that the woven fabric of Draxö could not have been formed on the Jacquard weaving process of Land. However, Applicants do not provide evidence of such unsuitability such that one of ordinary skill in the art forming a known woven glass fiber textile fabric with a known weaving process would not be capable of predictably forming a woven glass fiber textile fabric formed from the known process.

Additionally, although Applicants argue that Land teaches glass fiber yarns which are much larger than those presently claimed, Land teaches that the filaments should have an average diameter of approximately 0.00025 inch to ensure increased flexibility and strength. However, Land does not teach that the filaments necessarily have an average diameter of approximately 0.0025 inch. Additionally, the filament diameters of Draxö appear to be within the scope of the filament diameters of Land.